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BRYAN C. GEBHARDT

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43338

7590

08/12/2005

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EXAMINER

SALCE, JASON P

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/333,724	Applicant(s) GEBHARDT ET AL.	
	Examiner Jason P. Salce	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-23,25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-23,25 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 2-23 and 25-26 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 5-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Menand et al. (U.S. Patent No. 5,539,920).

Referring to claim 5, Menand discloses controlling the broadcast and reception of an interactive application (see Column 1, Lines 5-32 for controlling the broadcast and receiving of an interactive application).

Menand also discloses receiving control signals that control the broadcast of broadcast programs (see Column 4, Lines 10-17 and Column 5, Lines 21-27 for receiving packets that allow the receive to view video programs and run interactive applications).

Menand also discloses determining from the control signals an interactive application associated with one of the broadcast programs (see Column 4, Lines 23-49 for receiving a service from the broadcaster in the form of packets (control signals)

Art Unit: 2614

where the packets are used to make up a complete interactive application (such as an EPG), therefore an interactive application is determined from the incoming packets (control signals) received from the broadcaster).

Menand also discloses generating from the control signals, commands to maintain execution and termination of the interactive application in synchrony with either the display or the broadcast of the broadcast program, wherein the broadcast program is a television show (see Column 12, Lines 15-22 for receiving incoming packets from the broadcaster that contains commands to maintain execution of an interactive icon during an interactive television program).

Menand also discloses determining from the control signals that a commercial is being broadcast (see Column 13, Lines 15-21).

Menand also discloses that responsive to determining that a commercial is being broadcast, generating a command to suspend execution of the interactive application associated with the television show (see Column 13, Lines 29-45).

Menand also discloses that responsive to determining that the commercial is no longer being broadcast, generating a command to resume execution of the interactive application associated with the television program (see Column 13, Lines 54-67).

Referring to claim 6, see the rejection of claim 5 and further note that Menand also teaches receiving a control signal to terminate the television show (see Column 12, Lines 60-64 and Column 13, Lines 15-28 allowing the user to use the remote control to change channels).

Referring to claim 7, see the rejection of claim 6.

Claim Rejections 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2-4, 8-12, 16-19 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menand et al. (U.S. Patent No. 5,539,920) in view of Hendricks et al. (U.S. Patent No. 6,160,989).

Referring to claim 8, Menand discloses controlling the broadcast and reception of an interactive application (see Column 1, Lines 5-32 for controlling the broadcast and receiving of an interactive application).

Menand also discloses receiving control signals that control the broadcast of broadcast programs (see Column 4, Lines 10-17 and Column 5, Lines 21-27 for receiving packets that allow the receive to view video programs and run interactive applications).

Menand also discloses determining from the control signals an interactive application associated with one of the broadcast programs (see Column 4, Lines 23-49 for receiving a service from the broadcaster in the form of packets (control signals) where the packets are used to make up a complete interactive application (such as an EPG), therefore an interactive application is determined from the incoming packets (control signals) received from the broadcaster).

Menand also discloses generating from the control signals, commands to maintain execution and termination of the interactive application in synchrony with either the display or the broadcast of the broadcast program, wherein the broadcast program is a television show (see Column 12, Lines 15-22 for receiving incoming packets from the broadcaster that contains commands to maintain execution of an interactive icon during an interactive television program).

Menand fails to disclose receiving the control signals from a scheduling system by emulating a broadcast source device that is controlled by the scheduling system.

Hendricks discloses a CAP system, which packages multiple programs and combines the program package with control signals that emulate a broadcast source device that is controlled by the scheduling system (see Column 8, Lines 21-24 and Lines 53-56 and Column 9, Lines 26-33).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the interactive application broadcast system, as taught by Menand, using the control signals generator, as taught by Hendricks, for the purpose of targeting video to users (see Column 3, Lines 26-27 of Hendricks).

Referring to claim 10, Menand discloses controlling the broadcast and reception of an interactive application (see Column 1, Lines 5-32 for controlling the broadcast and receiving of an interactive application).

Menand also discloses receiving control signals that control the broadcast of broadcast programs (see Column 4, Lines 10-17 and Column 5, Lines 21-27 for

receiving packets that allow the receive to view video programs and run interactive applications).

Menand also discloses determining from the control signals an interactive application associated with one of the broadcast programs (see Column 4, Lines 23-49 for receiving a service from the broadcaster in the form of packets (control signals) where the packets are used to make up a complete interactive application (such as an EPG), therefore an interactive application is determined from the incoming packets (control signals) received from the broadcaster).

Menand also discloses generating from the control signals, commands to maintain execution and termination of the interactive application in synchrony with either the display or the broadcast of the broadcast program, wherein the broadcast program is a television show (see Column 12, Lines 15-22 for receiving incoming packets from the broadcaster that contains commands to maintain execution of an interactive icon during an interactive television program).

Menand fails to disclose that the controls signals are generated by a scheduling system in response to a playlist defining a series of broadcast programs including program identifiers and information describing when the broadcast programs are to be broadcast.

Hendricks discloses a CAP that generates control signals in response to a playlist defining a series of broadcast programs including program identifiers and information describing when the broadcast programs are to be broadcast (see Column 8, Lines 21-24 and Lines 53-56 and Column 9, Lines 26-33 and Column 18, Lines 1-4

Art Unit: 2614

for creating a program control information signal which contains program identifiers in Table A and information describing when the broadcast programs will be broadcast in Table B, therefore the program control information signal contains the playlist defining the series of broadcast programs, which is used by the CAP and transmitted to the headend or directly to the viewer's set top box).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the interactive application broadcast system, as taught by Menand, using the control signals generator, as taught by Hendricks, for the purpose of purpose of targeting video to users (see Column 3, Lines 26-27 of Hendricks).

Claim 2 corresponds to claim 10, where Menand discloses generating commands to maintain synchronous display of the interactive application with display of the broadcast program on a broadcast receiver (see Column 12, Line 60 through Column 13, Line 67).

Claim 3 corresponds to claim 10, where Menand discloses generating commands to terminate display of the interactive application in synchrony with the termination of the display of the broadcast program (see the rejection of claim 2 and also note Column 6, Lines 53-64).

Claim 4 corresponds to claim 10, where Menand discloses determining from the control signals a state of the broadcast program (see Column 13, Lines 14-20 for the state of the broadcast program being suspended because of a non-interactive commercial).

Menand also discloses that responsive to the state of the broadcast program, determining a state of the interactive application (see again Column 13, Lines 14-20 for not only determining that the broadcast program is suspended, but that the upcoming commercial is non-interactive therefore the interactive application for the broadcast program is also in a suspended state).

Menand also discloses generating at least one command appropriate to the state of the interactive application (see Column 13, Lines 29-45).

Claim 9 corresponds to claim 10, where Menand discloses that each control signal is associated with a broadcast program (see Column 4, Lines 11-17).

Menand also discloses a server to start, stop and cancel interactive applications for the broadcast program associated with the control signals (see Column 12, Line 60 through Column 13, Line 67).

Menand fails to teach translating the control signals into a set of commands to an interactive application server for selectively instructing the server to schedule interactive applications for the broadcast programs associated with the control signals.

Hendricks discloses a CAP that translates the control signals (incoming programs) into a set of commands (program control information signals) to an interactive application server (the CAP) for selectively instructing the server to schedule interactive application for the broadcast programs associated with the control signals (see Column 9, Lines 26-33 and Column 18, Lines 1-4 and Tables A-C).

Claim 12 corresponds to claim 10, where Hendricks further discloses that the control signals are pre-recorded and stored in association with the broadcast programs

Art Unit: 2614

that are controlled by the control signals (see Column 8, Line 49 through Column 9, Line 33 where the CAP is a computer assisted packaging computer, which contains software that controls the creation of the program package and control signals (program control information signals in Tables A-C), therefore the CAP contains the pre-recorded control signals that are selected by the operator to create the programming package and control signals for that programming package).

Claim 16 corresponds to claim 10, where Menand further teaches the limitations in the rejection of claim 6 (see above).

Claim 17 corresponds to claim 10, where Menand discloses determining a type of broadcast program for a control signal (see Column 4, Lines 19-29 for storing packets according to the type of broadcast program (video, audio or data)).

Claim 18 corresponds to claim 17, where Menand discloses determining a type for an interactive application as a function of the type of the broadcast program (see Column 12, Lines 42-59 for displaying a logo along with the broadcast program, therefore a video type of broadcast is displayed, then a logo type of an interactive application is displayed along with the video).

Claim 19 corresponds to claim 10, where Menand discloses determining a type of broadcast program for a control signal to be a television show (see the rejection of claim 17).

Menand also discloses determining a type of interactive application to the type of broadcast program (see Column 12, Lines 42-59 for displaying a logo along with the

Art Unit: 2614

broadcast program, therefore a video type of broadcast is displayed, then a logo type of an interactive application is displayed along with the video).

Referring to claim 11, Menand discloses controlling the broadcast and reception of an interactive application (see Column 1, Lines 5-32 for controlling the broadcast and receiving of an interactive application).

Menand also discloses receiving control signals that control the broadcast of broadcast programs (see Column 4, Lines 10-17 and Column 5, Lines 21-27 for receiving packets that allow the receive to view video programs and run interactive applications).

Menand also discloses determining from the control signals an interactive application associated with one of the broadcast programs (see Column 4, Lines 23-49 for receiving a service from the broadcaster in the form of packets (control signals) where the packets are used to make up a complete interactive application (such as an EPG), therefore an interactive application is determined from the incoming packets (control signals) received from the broadcaster).

Menand also discloses generating from the control signals, commands to maintain execution and termination of the interactive application in synchrony with either the display or the broadcast of the broadcast program, wherein the broadcast program is a television show (see Column 12, Lines 15-22 for receiving incoming packets from the broadcaster that contains commands to maintain execution of an interactive icon during an interactive television program).

Menand fails to disclose that the controls signals are generated by a scheduling system in response to actions of an operator to manually control broadcast of a broadcast program.

Hendricks discloses a CAP that generates control signals in response to actions of an operator to schedule broadcast programs (see Column 8, Lines 53-62 for creating a programming package of broadcast programs according to actions of a programmer/operator).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the interactive application broadcast system, as taught by Menand, using the CAP, as taught by Hendricks, for the purpose of targeting video to users (see Column 3, Lines 26-27 of Hendricks).

Referring to claim 25, see the rejection of claims 9 and 10. Also note that Menand teaches a channel interface (receiver in Figure 1), which contains a translator (application/interpreter in Figure 2) and an event manager (software drivers/kernel in Figure 2), which provides all of the functionality defined in claims 9 and 10.

Claim 26 corresponds to claim 25, where Menand discloses that the translator for a channel interface maintains a separate state machine for each uniquely identified broadcast program, which has an interactive application (see Column 5, Lines 28-43).

Menand also discloses that the event manager for a channel interface maintains a separate state machine for each interactive application of broadcast programs on the specific channel (see Column 5, Line 45 through Column 6, Line 64).

Art Unit: 2614

4. Claims 13-15 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menand et al. (U.S. Patent No. 5,539,920) in view of Hendricks et al. (U.S. Patent No. 6,160,989) in further view of Blackketter et al. (U.S. Patent No. 6,415,438).

Referring to claim 13, Menand and Hendricks disclose all of the limitations in claim 10, as well as Hendricks disclosing receiving a prepare control signal to prepare the broadcast of a selected broadcast program (see Column 8, Lines 53-62 for preparing a plurality of broadcast programs for transmission using the CAP).

Menand also discloses determining an interactive application associated with the selected broadcast program (see Column 12, Lines 46-59 for displaying an icon along with the broadcast program, which allows the user to access more information using the activate key on his/her remote control).

Menand and Hendricks fail to disclose generating a command to schedule execution of the determined interactive application.

Blackketter discloses the use of triggers that adhere to the ATVEF standard. Using this standard for trigger, the broadcaster can assign a start time for the trigger to execute, and therefore scheduling an interactive application (see Figure 3). Therefore Blackketter is capable of generating a command to schedule execution of the determined interactive application.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the interactive applications and CAP, as taught by Menand and Hendricks, using the ATVEF trigger, as taught by Blackketter, for the

Art Unit: 2614

purpose of synchronizing trigger with broadcast programming events (see Column 3, Lines 43-47 of Blackketter).

Referring to claim 14, see the rejection of claim 13.

Referring to claim 15, see the rejection of claims 10 and 13.

Referring to claim 20, Menand discloses controlling the broadcast and reception of an interactive application (see Column 1, Lines 5-32 for controlling the broadcast and receiving of an interactive application).

Menand also discloses receiving control signals that control the broadcast of broadcast programs (see Column 4, Lines 10-17 and Column 5, Lines 21-27 for receiving packets that allow the receive to view video programs and run interactive applications).

Menand also discloses determining from the control signals an interactive application associated with one of the broadcast programs (see Column 4, Lines 23-49 for receiving a service from the broadcaster in the form of packets (control signals) where the packets are used to make up a complete interactive application (such as an EPG), therefore an interactive application is determined from the incoming packets (control signals) received from the broadcaster).

Menand also discloses generating from the control signals, commands to maintain execution and termination of the interactive application in synchrony with either the display or the broadcast of the broadcast program, wherein the broadcast program is a television show (see Column 12, Lines 15-22 for receiving incoming packets from

the broadcaster that contains commands to maintain execution of an interactive icon during an interactive television program).

Menand also discloses a server to start, stop and cancel interactive applications for the broadcast program associated with the control signals (see Column 12, Line 60 through Column 13, Line 67).

Menand fails to disclose a scheduling system providing control signals to prepare, start and stop a broadcast source.

Hendricks discloses a CAP which is used to provide control signals to prepare, start and stop a broadcast source by creating a program package, which defines when a broadcast source will start and end its program, therefore by providing the program package with the program control information signal, the CAP acts as a scheduling system (see Column 8, Lines 21-24 and Lines 53-56 and Column 9, Lines 26-33 and Column 18, Lines 1-4).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the interactive application broadcast system, as taught by Menand, using the CAP, as taught by Hendricks, for the purpose of targeting video to users (see Column 3, Lines 26-27 of Hendricks).

Menand and Hendricks fail to disclose generating a command to schedule execution of the determined interactive application.

Blacketter discloses the use of triggers that adhere to the ATVEF standard. Using this standard for trigger, the broadcaster can assign a start time for the trigger to execute, and therefore scheduling an interactive application (see Figure 3). Therefore

Art Unit: 2614

Blackketter is capable of generating a command to schedule execution of the determined interactive application.

Blackketter also discloses ignoring a received start signal for the broadcast program where the command to start the interactive application with the broadcast program has already been generated (see Column 8, Lines 6-14 for ignoring a second trigger that had already been previously transmitted).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the interactive applications and CAP, as taught by Menand and Hendricks, using the ATVEF trigger, as taught by Blackketter, for the purpose of synchronizing trigger with broadcast programming events (see Column 3, Lines 43-47 of Blackketter).

Referring to claim 21, Menand discloses controlling the broadcast and reception of an interactive application (see Column 1, Lines 5-32 for controlling the broadcast and receiving of an interactive application).

Menand also discloses receiving control signals that control the broadcast of broadcast programs (see Column 4, Lines 10-17 and Column 5, Lines 21-27 for receiving packets that allow the receive to view video programs and run interactive applications).

Menand also discloses determining from the control signals an interactive application associated with one of the broadcast programs (see Column 4, Lines 23-49 for receiving a service from the broadcaster in the form of packets (control signals) where the packets are used to make up a complete interactive application (such as an

Art Unit: 2614

EPG), therefore an interactive application is determined from the incoming packets (control signals) received from the broadcaster).

Menand also discloses generating from the control signals, commands to maintain execution and termination of the interactive application in synchrony with either the display or the broadcast of the broadcast program, wherein the broadcast program is a television show (see Column 12, Lines 15-22 for receiving incoming packets from the broadcaster that contains commands to maintain execution of an interactive icon during an interactive television program).

Menand also discloses providing controls signals, which selectively distinguish television shows and commercials by the presence or absence of the identification codes in the control signals (see Column 6, Lines 36-64 for each program or application containing a directory module which identifies each packet and if the data is a television show or commercial).

Menand also discloses that in response to receiving a control signal containing an identification code indicating the broadcast of a commercial during a television show (see Column 6, Lines 53-64), generating a command to start the interactive application (see Column 12, Lines 46-59), and determining if an interactive application for the television program is executing and generating a command to stop the execution of the interactive application for the television show (see Column 13, Lines 14-28).

Menand also discloses that in response to receiving control signal not containing an identification code for a commercial, generating a command to cancel the interactive

Art Unit: 2614

application associated with the commercial (see Column 6, Lines 53-64), and generating a command to start the interactive application (see Column 13, Lines 54-67).

Menand fails to disclose a scheduling system and generating a command to schedule an interactive application associated with the commercial.

Menand fails to disclose that the controls signals are generated by a scheduling system in response to a playlist defining a series of broadcast programs including program identifiers and information describing when the broadcast programs are to be broadcast.

Hendricks discloses a CAP that generates control signals in response to a playlist defining a series of broadcast programs including program identifiers and information describing when the broadcast programs are to be broadcast (see Column 8, Lines 21-24 and Lines 53-56 and Column 9, Lines 26-33 and Column 18, Lines 1-4 for creating a program control information signal which contains program identifiers in Table A and information describing when the broadcast programs will be broadcast in Table B, therefore the program control information signal contains the playlist defining the series of broadcast programs, which is used by the CAP and transmitted to the headend or directly to the viewer's set top box).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the interactive application broadcast system, as taught by Menand, using the control signals generator, as taught by Hendricks, for the purpose of purpose of targeting video to users (see Column 3, Lines 26-27 of Hendricks).

Menand and Hendricks fail to disclose generating a command to schedule execution of the determined interactive application.

Blackketter discloses the use of triggers that adhere to the ATVEF standard. Using this standard for trigger, the broadcaster can assign a start time for the trigger to execute, and therefore scheduling an interactive application (see Figure 3). Therefore Blackketter is capable of generating a command to schedule execution of the determined interactive application.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the interactive applications and CAP, as taught by Menand and Hendricks, using the ATVEF trigger, as taught by Blackketter, for the purpose of synchronizing trigger with broadcast programming events (see Column 3, Lines 43-47 of Blackketter).

Referring to claim 22, see the rejection of claim 21 and further note that Hendricks teaches providing control signals including data identifying each broadcast program and its duration (see Tables A-C).

Referring to claim 23, see the rejection of claim 21 (also note the rejection of claim 6).

Conclusion

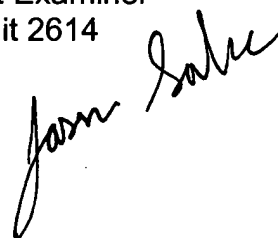
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

Art Unit: 2614

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason P Salce
Patent Examiner
Art Unit 2614

A handwritten signature in black ink, appearing to read "Jason Salce", written diagonally across the printed name and title.

July 27, 2005